

## **BY-LAW #3**

### **GRADUATE ACADEMIC APPEALS BOARD (GAAB)**

#### **PREAMBLE**

1. The Graduate Academic Appeals Board (hereinafter referred to as "the Board") is a standing committee of the Graduate Education Council of the School of Graduate Studies (hereinafter referred to as "the Council").

#### **REPEAL**

2. These Terms of Reference repeal and replace all former terms of reference.

#### **JURISDICTION**

3. a. The Board shall hear and determine appeals of students registered in the School of Graduate Studies concerning grades in a course or in a component of a grade in a course, or concerning any other decision with respect to the application of academic regulations and requirements to a student. Except by leave of the Board in exceptional circumstances, an appeal shall not be heard by the Board until all prior levels of academic appeal established for students in the School of Graduate Studies have been completed and determined. *EXCEPTION: Appeals related to failure of a final doctoral examination or related to termination of registration in a program should be made directly to the SGS Graduate Academic Appeals Board – Step 4(b) (see SGS Calendar entry on Academic Appeals). In some cases, the Chair of GAAB may refer the appeal to the Graduate Department Academic Appeals Committee for prior consideration. The GDAAC will not have the right to overturn a failed doctoral examination result or a termination of registration, but may recommend that such a decision be considered further by GAAB.*
- b. The Board may vacate, reverse, or amend the decision appealed from, and in the case of an appeal of a grade, may order a re-evaluation of the student in such manner and on such terms and conditions as the Board considers appropriate. The Board may recommend to the University that fees of a student be rebated or cancelled in whole or in part, but shall not otherwise recommend or award any monetary or other compensation. The Board shall not award costs of the appeal to or against the University.
- c. For the purposes of this section, "student" shall include a person who is no longer enrolled as a student in the School of Graduate Studies, but who was so enrolled at the time of the decision which is being appealed.
- d. A decision of the Board shall take effect as if it were a decision of the Council.

## **COMPOSITION**

4. The Board shall be composed of:
  - a. The Chair who shall be a member or retired member of the teaching staff of the University, or a person with academic credentials, and who shall be appointed by the Council upon the recommendation of the SGS Dean. Normally the Chair shall be legally qualified.
  - b. The Alternate Chairs who shall be members or retired members of the teaching staff of the University, or persons with academic credentials, and shall be appointed by the Council upon the recommendation of the SGS Dean. The Alternate Chairs may, but need not be, faculty members who are appointed to the Board to represent a division. Normally, Alternate Chairs shall be legally qualified.
  - c. Twelve Graduate Faculty members, that is, three members from each of the four SGS Divisions, who shall be members or retired members of the teaching staff of the School of Graduate Studies. The members shall be appointed by the Graduate Education Council, upon the recommendation of the SGS Vice-Dean, Students. The Graduate Faculty members shall not be members of the same graduate unit.
  - d. Three members, each of whom shall be registered as students within the School of Graduate Studies, who shall be appointed by the Council upon the recommendation of the student members of the Council. The student members shall not be registered as students in the same graduate unit.
5. The membership of the Board shall be reported to the Council annually, for information.
6. a. Where no Chair or Alternate Chair is available to hear and determine an appeal which has been filed, and it appears to the SGS Dean that there is no reasonable likelihood of such person becoming available or being permanently replaced without creating undue delay in the hearing of an appeal, the Dean may appoint *ad hoc* an appropriately-qualified person to act as Chair for the hearing of such appeal.
  - b. Where no Graduate Faculty member from a division, or no student member is available to hear and determine an appeal which has been filed, and it appears to the SGS Dean that there is no reasonable likelihood of such person becoming available or being permanently replaced without creating undue delay in the hearing of the appeal, the Dean may appoint *ad hoc* some person from the same constituency as the member who is unavailable, as a member of the Board for the purposes of determining that appeal.

## **TERM**

7.a. The Chair and the Alternate Chairs may each hold office for a maximum of five years from the date of their respective appointments. An appointment may be renewed by the SGS Dean for further one-year periods indefinitely.

b. Graduate Faculty Members representing the teaching staff of the divisions shall each hold office for a maximum of three years from the date of the appointment. An appointment may be renewed for further three-year periods indefinitely.

c. Student members shall each hold office for a period of one year from the date of the appointment. An appointment may be renewed for further one year periods indefinitely.

d. Where, at the expiration of the term of a Chair, Alternate Chair, teaching staff member or student member, that person is a member of a Hearing Panel that has commenced the hearing of an appeal, that person may continue as a member of the Board for the purpose of hearing and determining that appeal, notwithstanding that the person's appointment is not otherwise renewed, and notwithstanding that the person may no longer be eligible to be a member of the Board except for this provision.

## **SECRETARY**

8.a. The SGS Dean shall appoint a member of the administrative staff of the School of Graduate Studies to act as Secretary to the Board. The Secretary shall carry out such functions for the Board as the Chair, with the approval of the Dean, shall designate.

b. If the Secretary is unable to act, the SGS Dean may appoint an Acting Secretary.

## **INSTITUTION AND HEARING OF APPEALS**

9. Except by leave of the Chair or Alternate Chair, a Notice of Appeal shall be filed by the student with the Board not later than eight weeks after the decision at the immediately prior level of appeal has been communicated to the student.

10.a. After the Notice of Appeal has been filed with the Board, the Secretary, under the direction of the Chair or an Alternate Chair, shall establish a Hearing Panel to hear and determine the appeal at the earliest possible date, normally within six to eight weeks from the deadline given to the Student by the Secretary to submit all materials in support of the Notice of Appeal.

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b. After the deadline for the Student to submit all materials, the Secretary shall provide a copy to the graduate unit chair or director with a request for a written Response normally within four weeks.

c. After the graduate unit's Response is received, the Secretary shall provide a copy to the Student with a request for a written Reply normally within one week.

d. Subject to Paragraph 13, a Hearing Panel shall consist of:

i) a chair, who shall be the Chair or Alternate Chair or a person appointed *ad hoc* pursuant to Paragraph 6 to act as Chair;

ii) a teaching staff member who is a Graduate Faculty Member from each of the divisions of the School of Graduate Studies or a person appointed *ad hoc* pursuant to Paragraph 6 to act in place of a member and

iii) a student member or a student appointed *ad hoc* pursuant to Paragraph 6 to act in place of a student member .

e. A copy of the appeal package, including the Notice of Appeal and supporting materials, the graduate unit's Response, and the Student's Reply, if any, shall be provided to members of the Hearing Panel and the parties.

11. If, after a Hearing Panel has been constituted to hear and determine an appeal, but before the hearing has commenced, the Panel Chair becomes unable to act, another Panel Chair shall be appointed. The replacing Panel Chair shall be the Chair, an Alternate Chair or a person appointed *ad hoc* pursuant to Paragraph 6. If a teaching staff or student member of the Hearing Panel becomes unable to act, another member of the Board from the same constituency, or a person appointed *ad hoc* pursuant to Paragraph 6 shall be appointed.

12. After a Hearing Panel has commenced to hear an appeal, if the Panel Chair becomes unable to act, he or she shall cease to be a member of the panel and shall not take further part in the hearing or determination of the appeal. The other members of the Hearing Panel may either select one of themselves to act as Panel Chair until the appeal is determined, or may terminate the hearing and remit the appeal to be reheard by a reconstituted Hearing Panel.

13. After a Hearing Panel has commenced to hear an appeal, if a member of the Hearing Panel other than the Panel Chair becomes unable to act, he or she shall cease to be a member of that panel, and shall not take further part in the hearing or determination of the appeal. The remaining members of the Hearing Panel shall continue to hear and determine the appeal, so long as at least four members, including the Panel Chair, are present. If there are fewer than four members, including the Panel Chair, able to act, the proceedings before

that Hearing Panel shall terminate, and a new Hearing Panel shall be constituted to hear and determine the appeal.

14. The student who is appealing and representatives of the University may attend, present evidence, and submit argument at meetings of the Hearing Panel, except meetings or portions thereof when the panel is deliberating, and may be represented by counsel or other agent. "Entitled Persons", as defined by the Rules of the Board, may attend, present evidence and be represented by counsel or other agents, to the extent permitted by the Panel Chair.

15. The hearing of the appeal shall be open to the public, unless the Hearing Panel decides that the hearing shall be closed. A hearing shall be closed only in circumstances where a hearing to which the Ontario *Statutory Powers Procedure Act* applies may be closed.

16. Decisions of the Hearing Panel shall be made by a simple majority of the members. The Panel Chair shall not vote except in the case of a tie, but may take part in the deliberations of the Panel. Decisions normally shall be provided to the Secretary for distribution to the parties within four weeks from the date of the hearing. Decisions shall be submitted in writing with reasons.

17. A decision of a Hearing Panel shall take effect as a decision of the Board.

#### **POWERS OF THE CHAIR**

18. The Chair may determine:

- a. that an appeal or some part thereof is outside the jurisdiction of the Board;
- b. that an appeal to the Board has been filed prematurely without completion of all previous steps of the appeal process, if any, and may remit the appeal for determination at the appropriate stage;
- c. that an appeal submitted late may be accepted if requested in writing; alternatively, the Chair may refer the written request to the Board;
- d. that a request may be granted for extension of any operative deadline.

The decision of the Chair shall be final, and shall take effect as a decision of the Board.

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19. The Chair shall determine issues of the law of Ontario or of Canada that may arise with respect to an appeal. Where the interpretation of an internal statute, regulation or rule of the University is required in order to determine an appeal, that issue shall be decided by the Hearing Panel.

20. The Chair may determine all interim or interlocutory matters which may arise concerning the hearing of the appeal, and the admissibility of evidence. If the Chair considers it proper, such matter, other than admissibility of evidence, may be referred to the Hearing Panel for determination.

21. The Chair may determine that certain persons are "Entitled Persons", as defined under the rules of the Board, and may direct the Secretary to give such persons notice of the proceedings in an appeal, and give directions as to copies of documents that shall be supplied to those persons and as to the manner and degree of participation of such persons in the hearing of the appeal.

22. Prior to the establishment of a Hearing Panel to hear and determine an appeal, the powers and duties of the Chair shall be exercised by the Chair, or, if the Chair is unavailable to act, or so requests, by an Alternate Chair.

23. After the establishment of a Hearing Panel to hear and determine an appeal, the powers and duties of the Chair with respect to that appeal shall be exercised by the Panel Chair.

## **RULES**

24. The Board may make rules for the institution and conduct of appeals to the Board. Rules and procedures existing at the time this resolution comes into effect shall remain in force until repealed or amended by the Board.

## **ENTRY INTO FORCE**

25. The Graduate Academic Appeals Board and its Terms of Reference enter into force when enacted by the Graduate Education Council of the School of Graduate Studies. (Prior to its existence as the Graduate Academic Appeals Board, the GAAB was preceded by a committee named "The Applications and Memorials Committee.") The Board and its Terms of Reference were originally established by SGS Council at its meeting of May 22, 2001.

The GAAB and its Terms of Reference were amended by the SGS Council on:  
January 29, 2002;  
October 22, 2002;  
May 25, 2004;  
April 26, 2005.

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This By-law of the Graduate Education Council was originally created on May 9, 2006 and approved by the Graduate Education Council on May 23, 2006.  
This By-law (#3) was amended by the SGS Graduate Education Council on:  
October 19, 2010;  
April 19, 2011.